

LEGISLATIVE HISTORY ONLY

Proposed Floor Statement on Section 717

Mr. President:

In connection with section 717, which is the Federal employee provision of the bill, the Committee has specifically provided a statutory appeal mechanism, including access to the United States District Court, for any Federal employee or applicant who believes he has been discriminated against in this capacity because of race, color, religion, sex, or national origin.

In providing the statutory basis for such appeal or court access, it is not the intent of the Committee to subordinate any discretionary authority or final judgment now reposed in agency heads by, or under, statute for national security reasons. In seeking to insure equal employment opportunities for Federal employees, we do not intend to impair current statutory authority or interfere with determinations made pursuant to that authority by an agency head in the interest of national security.

We do not believe that section 717 modifies any statutes relating to national security, nor that it affects current court decisions upholding any authority granted under those statutes; but it is our opinion that in the absence of affirmative determinations pursuant to national security statutes, the procedures set out in section 717 would apply.

Three Amendments in the Alternative  
to Section 717 of S. 2515

1. Page 66, line 5, add new subsection (f):

"SEC. 717. (f) Notwithstanding any other provision of this section, this section shall not apply to any personnel action if--

(1) the position involved is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) a determination that the requirement is not fulfilled is made by the head of an executive agency as defined in section 105 of Title 5, United States Code having discretionary authority to terminate the employment of the incumbent of the position whenever he shall determine such termination necessary or advisable in the interest of the United States."

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2. Page 66, line 5, add new subsection (f):

"SEC. 717. (f) Notwithstanding any other provision of this section, this section shall not apply to any personnel action if the position involved is subject to any requirement imposed in the interest of the national security of the United States and a determination that the requirement is not fulfilled is made by the head of an executive agency as defined in section 105 of Title 5, United States Code, having discretionary authority to terminate the employment of the incumbent of the position whenever he shall determine such termination necessary or advisable in the interest of the United States or the national security."

3. Page 63, line 3, insert the underscored:

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment... (other than the General Accounting Office or an agency not having any position in the competitive service)...."

4. Page 66, line 5, add new subsection (f):

"SEC. 717. (f) The President, at any time in the public interest, may--

(1) except any agency (other than the Civil Service Commission) from this section, and

(2) withdraw an exception made under this subsection."

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Material not used in  
package of 13 Jan. 1972.  
  
(portions of this material  
given to Elisburg 11 Jan. )